

REMARKS

This is a full and timely response to the non-final Office Action (Paper No. omitted) mailed by the U.S. Patent and Trademark Office on October 26, 2004. Claims 1-4 remain pending in the present application. In view of the following remarks, reconsideration and allowance of the present application and claims are respectfully requested.

Oath/Declaration

The Office Action states that the "Applicant is now required to submit a substitute declaration or oath to correct the deficiency set forth, namely the declaration of a Continuation of copending application Serial No. 09/791,332."

The undersigned wishes to thank the Examiner for the teleconference of January 4, 2005, in which the new Oath/Declaration requirement was discussed.

Applicant respectfully submits that a new Oath/Declaration is not required in this application. Applicant submits that M.P.E.P. § 201.11, which refers to continuity between applications, refers to 35 U.S.C. § 120, which states:

An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application *and if it contains or is amended to contain a specific reference to the earlier filed application*. No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section.

Emphasis added.

Applicant respectfully submits that the above-identified application was filed on December 4, 2003, as a continuation of Application No. 09/791,332, and properly included a copy of the declaration from prior copending Application No. 09/791,332, and a Preliminary Amendment. The Preliminary Amendment amended page 1, line 1 of the prior application (Application No. 09/791,332) to read "This is a Continuation of copending application Serial No. 09/791,332, filed on 2/23/2001, the entire disclosure of which is incorporated herein by reference."

Applicant respectfully submits that Applicant has complied with the requirements of 35 U.S.C. § 120 and M.P.E.P. § 201.11, and has effected a proper priority claim. Applicant respectfully requests that the requirement of a new oath/declaration be withdrawn.

Specification

The Office Action objects to the abstract because "it refers to a method which is not the claimed invention." The Office Action also states that the title is not descriptive and requires a new title that is clearly indicative of the invention to which the claims are directed.

Applicant has amended the abstract to comply with M.P.E.P. § 608.01(b) and has amended the title of the invention as suggested by the Examiner.

Rejections Under 35 U.S.C. § 102

Rejection over U.S. Patent Application Publication No. 2002/0117855 A1 to Rittenhouse.

Claims 1-4 stand rejected under 35 U.S.C. § 102(b) as allegedly being clearly anticipated by U.S. Patent Application Publication No. 2002/0117855 A1 to Rittenhouse (hereafter *Rittenhouse*), which is now U.S. Patent No. 6,709,027, issued on March 23, 2004.

Applicant respectfully submits that U.S. Patent No. 6,709,027 (Application No. 09/791,332) is the parent of the instant application and is not available as prior art because the instant application properly claims priority to U.S. Patent No. 6,709,027 (Application No. 07/791,332), as described above.

Accordingly, Applicant respectfully requests that the rejection be withdrawn.

Rejection over U.S. Patent No. 5,601,785 to Higdon.

Claims 1-4 stand rejected under 35 U.S.C. § 102(b) as allegedly being clearly anticipated by U.S. Patent No. 5,601,785 to Higdon (hereafter *Higdon*). A proper rejection of a claim under 35 U.S.C. § 102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *See, e.g., In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994); *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990). Alternatively, anticipation requires that each and every element of the claimed invention be embodied in a single prior art device or practice. *See, e.g., Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992). The test is the same for a process. Anticipation requires identity of the claimed process and a process of the prior art. The claimed process, including each step thereof, must have been described or embodied, either expressly or inherently, in a single reference. *See, e.g., Glaverbel S.A. v. Northlake Mkt'g & Supp., Inc.*, 45 F.3d 1550, 33 USPQ2d 1496 (Fed. Cir. 1995). Those elements must either be inherent or disclosed expressly. *See, e.g., Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 7 USPQ2d 1057 (Fed. Cir. 1988); *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987). Those elements must also be arranged as in the claim. *See, e.g., Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989); *Carella v. Starlight Archery & Pro Line Co.*, 804 F.2d 135, 231 USPQ 644 (Fed. Cir. 1986). For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *See, e.g., Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

Accordingly, the single prior art reference must properly disclose, teach or suggest each element of the claimed invention.

The Office Action states that *Higdon* discloses:

a connector assembly comprising: a connector (104) having an internal conical shaped bore dimensioned so that a capillary column and auxiliary tubing can be press-fit into the bore; and an auxiliary length of cylindrical tubing (119) having an inner diameter dimensioned so that a close fit is created when a capillary column is inserted through the auxiliary tubing and having an outer diameter dimensioned so that a fluid seal is created when the auxiliary tubing is press-fit into the bore.

Higdon appears to disclose a detachable column cartridge for a gas chromatograph. *See, Higdon, Abstract.* In Figures 7 and 8, *Higdon* shows the overall structure of a column connector, where Figure 7 shows the two sides 90 and 91 of the connector separated and Figure 8 shows the two sides 90 and 91 of the connector joined. *See, Higdon, col. 4, lines 53-58.* With regard to Figures 9-11, *Higdon* illustrates the details of the structure of an instrument fitting 104 and a column fitting 112 and the manner in which a capillary tube 107 and a chromatographic column 118 are inserted into the instrument fitting 104 and the column fitting 112, respectively. *See, Higdon, col. 6, lines 12-16.*

Higdon continues, stating that: “[i]nstrument fitting 104 and column fitting 112 have narrow tapered bore sections designated 104C and 112C, respectively, in FIGS. 9 and 10. Tapered bore section 104C ends in an orifice 104B at a face 104A of column fitting 104. Similarly tapered bore section 112C terminates in an orifice 112B at a face 112A of column fitting 112.” *See, Higdon, col. 6, lines 16-21.* With respect to Fig. 9, *Higdon* states that: “[c]apillary tube 107 has an external coating of polyimide. Tube 107 is inserted into the tapered section 104C until it approaches the orifice 104B, and an end of tube 107 abuts the walls of the tapered section 104C. Instrument fitting 104 is then heated to 200° - 300°C. This fuses the coating of capillary column 107 to instrument fitting 104. Next, an adhesive, designated by the reference numeral 120, is introduced through the open end of instrument fitting 104 and is allowed to harden, firmly anchoring tube 107 to instrument fitting 104. The adhesive may be a high-temperature UV adhesive or it may be dissolved polyimide. Adhesive 120 may

be extended to assist in holding strain relief 108 in place. Similarly, column 118 is forced into the tapered bore section 112C of column fitting 112 and an adhesive 121 is introduced.” *See, Higdon*, col. 6, lines 29-44. Importantly, the only mention of strain relief 119 occurs in col. 5, on line 62 where *Higdon* states that: “[s]train relief 119 may be made of polyimide or TEFILON polymer.”

From this, it is abundantly clear that *Higdon* merely discloses a conical shaped bore into which a tube (for example, the capillary tube 107 or the column 118) is inserted and sealed with an adhesive 120 or 121. Specifically, nowhere does *Higdon* disclose, teach or suggest “an auxiliary length of cylindrical tubing having an inner diameter dimensioned so that a close fit is created when a capillary column is inserted through the auxiliary tubing and having an outer diameter dimensioned so that a fluid seal is created where the auxiliary tubing is press-fit into the bore,” as recited in independent claim 1.

With regard to the statement in the Office Action that *Higdon* discloses “an auxiliary length of cylindrical tubing (119) having an inner diameter dimensioned so that a close fit is created when a capillary column is inserted through the auxiliary tubing and having an outer diameter dimensioned so that a fluid seal is created when the auxiliary tubing is press-fit into the bore,” Applicant respectfully submits that nowhere does *Higdon* disclose, teach or suggest that an auxiliary length of cylindrical tubing is press-fit into a bore, or that the auxiliary tubing provides a fluid seal when the auxiliary tubing is press-fit into the bore. Indeed, the Office Action appears to equate the strain relief 119 of *Higdon* with Applicant’s auxiliary tubing. However, nowhere does *Higdon* disclose, teach or suggest that the strain relief 119 (or the strain relief 108 with respect to Fig. 9 of *Higdon*) is press-fit into a bore or in any way creates a fluid tight seal with the instrument fitting 104 or the column fitting 112.

Nor does *Higdon* disclose, teach or suggest “an auxiliary length of cylindrical tubing having an inner diameter dimensioned so that a close fit is created when a capillary column is inserted through the auxiliary tubing,” as recited in claim 1. Indeed, FIGS. 9 and 10 of *Higdon* appear to show a large space or gap between the

capillary tube 107 and the flexible strain relief 108 (FIG. 9) and a large gap or space between the chromatographic column 118 and the strain relief 119 (FIG. 10). Nowhere does *Higdon* disclose, teach or suggest a close fit between the capillary tube 107 and the flexible strain relief 108 (FIG. 9) or between the chromatographic column 118 and the strain relief 119 (FIG. 10).

Accordingly, Applicant respectfully submits that independent claim 1 is allowable over *Higdon*, and furthermore, that dependent claims 2-4, which depend directly from allowable independent claim 1, are allowable for at least the reason that they depend from an allowable independent claim. *In re Fine*, 837 F.2d 1071, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1998).

CONCLUSION

For at least the foregoing reasons, Applicant respectfully requests that all outstanding rejections be withdrawn and that all pending claims of this application be allowed to issue. If the Examiner has any comments regarding Applicant's response or intends to dispose of this matter in a manner other than a notice of allowance, Applicant requests that the Examiner telephone Applicant's undersigned attorney.

Respectfully submitted,

NEEDLE & ROSENBERG, P.C.
Customer No. 23859

By:



Michael J. Tempel
Registration No. 41,344